

DCI/IC 78-3758

FEB 24 1978

MEMORANDUM FOR: Director of Central Intelligence

FROM:

[REDACTED]
Deputy to the DCI for Resource Management

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SUBJECT: Draft Defense Implementing Memorandum

1. Action Requested. Discussion with Secretary of Defense Brown and Deputy Secretary Duncan.

2. Background.

a. I have reviewed the draft memorandum Charles Duncan gave to you (attached). An internal Defense implementation of E.O. 12036 is necessary and appropriate. However, there are two principles we should insist be applied to the procedures set forth by Defense.

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b. Review of the draft Defense implementation reveals these principles are violated in a number of significant places. They are discussed below.

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THE DEPUTY SECRETARY OF DEFENSE
WASHINGTON, D. C. 20301

This came from 12 June 2/27/78

MEMORANDUM FOR SECRETARIES OF THE MILITARY DEPARTMENTS
CHAIRMAN, JOINT CHIEFS OF STAFF
UNDER SECRETARY OF DEFENSE (RESEARCH AND ENGINEERING)
ASSISTANT SECRETARIES OF DEFENSE
GENERAL COUNSEL
DEPUTY UNDER SECRETARY OF DEFENSE FOR POLICY
DIRECTOR, NATIONAL SECURITY AGENCY
DIRECTOR, DEFENSE INTELLIGENCE AGENCY
DIRECTOR, DEFENSE MAPPING AGENCY

SUBJECT: Implementation of Executive Order 12036, Replacing EO 11905

References: (a) Executive Order 12036, dated 24 January 1978
(b) Executive Order 11905, dated 19 February 1976

On 24 January, the President signed Executive Order 12036 (reference (a)) to replace EO 11905 (reference (b)) on intelligence activities. The provisions of this Executive Order apply to all DoD activities and agencies, including the Office of the Secretary of Defense, the Military Departments, the Joint Chiefs of Staff, and the Unified and Specified Commands.

Reference (a) establishes the key relationships and responsibilities for the intelligence and counterintelligence activities of the United States. All intelligence and counterintelligence activities of the DoD shall be conducted in conformance with EO 12036. In order to ensure a responsive and efficient implementation of reference (a), this memorandum assigns specific responsibilities within the Department of Defense. The Deputy Under Secretary of Defense (Policy) will be responsible for coordinating the implementation activities and assuring that appropriate implementation occurs. In this capacity, the Deputy Under Secretary (Policy) will review and coordinate all implementing DoD Directives, Instructions, and guidelines for my signature, as well as provide subsequent guidance as appropriate for the issuance of implementing directives by any component of the Department of Defense. 3 ?

Specific responsibilities and functions for implementing EO 12036 are as follows:

1. Policy Review Committee (PRC) - The Policy Review Committee of the National Security Council is required to establish requirements and priorities for and to review and evaluate national foreign intelligence. It will review the National Foreign Intelligence Program and budget proposals to ensure that all resource allocations for national intelligence capabilities are responsive to the requirements of the PRC. The Deputy Under Secretary (Policy) will coordinate the formulation of and will validate DoD requirements and establish DoD priorities and will review and evaluate intelligence for the DoD. The ASD(C³I) will support the Secretary of Defense in budget and program matters for the PRC(I) and will ensure that DoD intelligence resource allocations respond to established requirements and priorities. The Deputy Under Secretary (Policy) will verify the response to requirements, and will interpret policy and requirements as necessary for Program Managers. ?

2. Special Coordination Committee (SCC) - The SCC of the National Security Council is responsible for overseeing special activities, sensitive foreign intelligence collection operations and counterintelligence activities. The Deputy Under Secretary (Policy) will prepare and coordinate all DoD policy recommendations on counterintelligence activities for consideration by the Secretary of Defense for forwarding to the SCC.

3. Intelligence Programs and Budgets - The Director of Central Intelligence is responsible for approving the budget for the National Foreign Intelligence Program. The Secretary of Defense is responsible for ensuring timely development and submission of DoD proposed national intelligence requirements, priorities, programs and budgets in the proper format for the National Foreign Intelligence Program and is responsible for approval of all other elements of the overall DoD budget. In order to fulfill this responsibility, all Program Managers will work with the ASD(C³I) on program and budgets, the Deputy Under Secretary (Policy) on requirements and priorities, and the ASD(C). The ASD(C³I) will review all intelligence programs and budgets to ensure that they are technically and programmatically sound. The Deputy Under Secretary (Policy) will review all intelligence and counterintelligence programs and budgets to ensure that they are in consonance with stated policy and respond to valid requirements. The ASD(C) will review counterintelligence budgets and programs to ensure that they are technically sound and consistent with program guidance. The ASD(C) will ensure that other appropriate OSD staff elements review intelligence and counterintelligence submissions to ensure appropriate interfaces with related Defense programs and to mesh the various NFIP elements into the overall Defense budget. *EXPAND*

4. Reprogramming of Funds - The Director of Central Intelligence has full and exclusive authority for reprogramming National Foreign Intelligence Program funds, appropriated to the Department of Defense, in accordance with OMB guidelines, and after consultation with the Secretary of Defense. Ordinarily reprogramming actions shall be initiated by DoD

Program Managers to the Secretary of Defense, who shall submit such requests, as appropriate, to the Director of Central Intelligence for approval. Where the DCI initiates a reprogramming request, such request shall be directed to the Secretary of Defense who shall, if appropriate, transmit such request to the DoD Program Manager involved for the initiation of formal reprogramming action. ASD(C³I) will continue to coordinate NFIP reprogramming actions for OSD.

5. Appeals to Reprogramming Action - Appeals by Program Managers to any directed reprogramming action will be submitted to the ASD(C³I). The ASD(C³I) and Deputy Under Secretary (Policy) will coordinate all such appeals and make recommendation for action by the Secretary of Defense.

6. Program and Performance Audits and Evaluation - The DCI is authorized to conduct program and performance audits and evaluations of elements of the National Foreign Intelligence Program. In order to ensure that the DCI is able to perform an objective audit and evaluation without unduly disrupting DoD activities, requests to conduct performance audits and evaluations will be referred to the Deputy Under Secretary (Policy) who will coordinate the requests and scheduling of the audits and evaluations. Requests for technical evaluations will be referred to the ASD(C³I) for scheduling and coordination.

7. Program Guidance - The DCI will issue guidance for program and budget development for NFIP programs, including those NFIP programs managed by DoD. The Secretary of Defense shall also continue to issue program and budget guidance for these programs in the form of the Consolidated Guidance issued annually for all DoD entities, including those whose programs are contained in the NFIP. To ensure that there are no conflicts or contradictions between the guidance issued by the DCI and that issued by the Secretary of Defense, the Deputy Under Secretary (Policy) and the ASD(C³I) shall jointly review DCI guidance prior to its implementation by DoD entities, and take appropriate action on behalf of the Secretary of Defense to resolve such conflicts. Such action will be in accordance with appropriate ASD(PA&E) procedures.

8. Restricted Activities - Reference (a) has established new restrictions upon intelligence activities which apply to the DoD. The General Counsel, in coordination with the Deputy Under Secretary (Policy), will prepare implementing instructions to ensure DoD intelligence and counterintelligence activities are carried out in compliance with these restrictions.

9. Special Procedures - Certain procedures for the collection, dissemination and storage of intelligence and counterintelligence information must be submitted by the Secretary of Defense for approval by the Attorney General. The General Counsel, in coordination with the Deputy Under Secretary (Policy), shall prepare the required procedures for transmittal by the Secretary of Defense to the Attorney General. Until

such procedures have been approved by the Attorney General, the terms and conditions of reference (b) and any procedures promulgated thereunder shall continue to apply.

10. Management - The Secretary of Defense has the responsibility to direct, operate, control and manage all intelligence functions performed by agencies and activities of the Department of Defense. There are two offices specifically charged with assisting the Secretary of Defense in exercising these responsibilities. The ASD(C³I) will have responsibility for technical and programmatic aspects, including research, systems development and acquisition. The Deputy Under Secretary (Policy) will formulate policy, validate all requirements and ensure that programs respond to stated requirements.

11. Counterintelligence Activities - All counterintelligence activities of the DoD conducted within the United States shall be coordinated with the FBI pursuant to procedures agreed upon by the Secretary of Defense and the Attorney General. The Deputy Under Secretary (Policy), in coordination with the General Counsel and the ASD(C), will develop such procedures for submission by the Secretary of Defense to the Attorney General. DoD counterintelligence activities conducted outside the United States will be coordinated with the Central Intelligence Agency in accordance with established procedures.

12. Congressional Committees - The oversight responsibilities of the Congress for intelligence and counterintelligence activities have been strengthened by reference (a). In order to assist in fulfilling this strengthened role, written requests for information from the Congress regarding intelligence shall be coordinated fully with the Deputy Under Secretary (Policy) and the ASD(C³I). Such requests for counterintelligence information will be coordinated fully with the Deputy Under Secretary (Policy) and the ASD(C). Copies of proposed Congressional testimony will be submitted to the Deputy Under Secretary (Policy) and, as appropriate, the ASD(C³I) or the ASD(C), 48 hours before submittal to Congress and 24 hours before submittal to the DCI. Recommendations on Defense Department or Administration positions on pending or proposed legislation will be submitted to the Deputy Under Secretary (Policy) who will coordinate with the General Counsel and other appropriate offices prior to submission to either the Congress or the DCI. These responsibilities will be in addition to normal ATSD(LA) procedures.

13. Relationship with DCI - In implementing and executing the provisions of reference (a), any difference of interpretation that arises between the DCI and any DoD element shall be referred to the Deputy Under Secretary (Policy) who shall take action as appropriate to resolve such difference.

14. Protection of Sources and Methods - The Director of Central Intelligence has responsibility for ensuring that programs are developed

by the Intelligence Community which protect intelligence sources and methods to include the establishment of common security and access standards. In carrying out DoD obligations in this connection, the Deputy Under Secretary (Policy) will exercise program oversight for these matters. In this connection, the Deputy Under Secretary (Policy) will coordinate as appropriate with the ASD(C) to ensure compatibility and consistency with the DoD collateral personnel, physical, document, investigative and industrial security programs.

In order to fully implement reference (a), it will be necessary to revise many existing Directives and Instructions and issue new ones. The Deputy Under Secretary (Policy), in coordination with ASD(C), will manage and coordinate this implementation effort, ensuring that the full intent of reference (a) is carried out. The Deputy Under Secretary (Policy) is authorized to task DoD activities as necessary to carry out the required revisions of Directives, Instructions and procedures and the issuance of appropriate new documentation.

The implementation effort tasked herein will be completed with full OSD coordination within 120 days.

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